

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 495 OF 2011

IN THE MATTER OF THE IMMIGRATION LAW (2010 REVISION)

AND IN THE MATTER OF AN APPEAL BY READY MIX CONCRETE CO. LTD.
against the refusal of application for Key Employee Status

AND IN THE MATTER OF AN APPLICATION by READY MIX CONCRETE CO. LTD.
for Judicial Review Pursuant to Order 53 of the Grand Court Rules

BETWEEN:



READY MIX CONCRETE CO. LTD.



APPLICANT

AND:

THE HONOURABLE ATTORNEY GENERAL

RESPONDENT

NOTICE OF EXPARTE APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

TO: The Clerk of Courts, Law Courts, George Town, Grand Cayman, Cayman Islands	
Name address and description of applicant	The Applicant is Ready Mix Concrete Co. Ltd. ("Employer") who is the employer of Nacieve Barrett. The Employer has been providing concrete and cement products to the Cayman Island for nearly 15 years. Mr. Barrett has been employed with the company since 2005 and is instrumental to continued success and competitiveness of the Employer's business.
Judgment, Order, decision or other proceeding in respect of which relief is sought.	The Work Permit Board (the "Board") refused to grant the Employer's application for Key Employee Status in favour of Mr. Barrett. The Applicant seek leave to apply outside of time as it was under the impression that its employee would qualify for the new term limit extensions under the revised amendments to the Immigration Law.

RELIEF SOUGHT

The Applicant requests this Honourable Court to review the decision of the Board and seeks relief in the following:

1. An order of *Certiorari* quashing the said decision of the Board;
2. An order of *Certiorari* remitting the matter to the Respondent on Directions to reconsider and reach a decision in accordance with the findings of the Grand Court; and/or in the alternative,
3. An order of *Mandamus* directed to the Board requiring it to:
 - (a) grant the application for Key Employee Status on the basis that Mr. Barrett is instrumental to his Employer's continued success; and
 - (b) Specify the matters which the Board should take into consideration when determining the grant of Key Employee Status.
4. Such further, consequential, or other relief as to this Honourable Court seems just.
5. A direction that all proceedings on the Order be stayed until the determination of the Application for Judicial Review.

Name and address of the Applicant's attorney, or if no attorney acting, the address for service of the applicant:

Pearson & Associates
Unit D, Barnett Music Centre, 24 Huldah Ave
George Town, PO Box 5 Grand Cayman KY1-1801

Signed: *Pearson & Associates*

Attorneys for the Applicant

Dated this 13th day of December, 2011

NOTE: Pursuant to Order 53, an oral hearing is not required before this Application for leave to apply for judicial review is considered and determined by this Honourable Court.

BACKGROUND FACTS

1. The following is a summary and supplemental to the full factual basis of the Application which is contained within the Affidavit in Support of Raul Gonzalez, Managing Director and Owner of the Applicant ("**the Applicant**") sworn 13 December 2011.
2. The Applicant is an ordinary resident company, incorporated in the Cayman Islands whose address for service is that of its attorney, Pearson & Associates, 24 Huldah Ave, George Town, PO Box 5, Grand Cayman, KY1-1801.

3. The Applicant has carried on business in the Cayman Islands as a concrete and cement supplier for over 15 years.
4. On 21 March 2011 the Applicant applied to the Board for the grant of Key Employee Status in respect of one of its long standing and most experienced employees, Mr. Nacieve Barrett. The Applicant outlined in a very brief letter the important role Mr. Barrett played in the continued success of its business.
5. By way of letter dated 7 July 2011, the Board informed the Applicant that Mr. Barrett had been refused Key Employment Status on the basis that he did not satisfy the Board that he fulfills any of the specialist qualifications that would be in short supply. The Board further stated that the position would not require a Caymanian to be trained for two year period nor had the applicant submitted any evidence or confirmation that a Caymanian was in fact being trained by Mr. Barrett.
6. The Board did not take the requisite step to educate itself of the requirements or intricacies associated with handling heavy equipment, particularly 18 wheeler trucks. Had the Board made the proper enquiries of the Applicant it would have had an opportunity to address any uncertainties regarding the profession.
7. Additionally, the Board should have outline the specific information it was seeking from the Applicant so that it could have properly addressed any concerns the Board may have had.
8. Particularly, the Board should have specified what documents it required to support the application for key employee and what documents it required from the Applicant to support that Mr. Wellington was in fact being trained. Furthermore, we understand that the Board has in the past taken its own steps to confirm that a Caymanian is in fact being trained.

GROUND ON WHICH RELIEF IS SOUGHT

IN RELIANCE OF THE FACTS stated in the Affidavit in support of the Application and by reference to the legal provisions set out above, the Grounds upon which relief is sought are as follows:

9. In reaching the decision that the Applicant's grant of Key Employee Status should be refuse, the Board acted unreasonably by failing to consider matters which it should have taken into consideration.

For all the reasons set out above, the applicant seeks leave of this honourable Court to apply for Judicial Review.

Dated this 13th day of December 2011

PEARSON & ASSOCIATES
Attorney-at-Law for the Applicant